

**Appl. No.** : **10/828,923**  
**Filed** : **April 21, 2004**

### **REMARKS**

In response to the Office Action issued May 25, 2007, Applicant respectfully requests the Examiner to reconsider the above-captioned application in view of the foregoing amendments and the following comments. As a result of the amendments listed above, Claims 1-7, 9 and 10 remain pending. Claim 1 has been amended.

In the changes made by the current amendment, ~~deletions are shown by strikethrough~~, and additions are underlined.

Claims 1, 2, 4-7, and 9 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Abiuso et al (U.S. 5,213,576). Claim 3 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Abiuso in view of Burns (U.S. 5,032,113). Claim 10 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Abiuso in view of Reynolds (U.S. 5,370,610).

Applicants respectfully traverse the present rejection. Applicants have amended Claim 1 to expedite prosecution of this case and to clarify the distinctions over the prior art. As amended, Claim 1 is not anticipated by Abiuso. The elongated tube of amended Claim 1 has a uniform, non-expandable diameter. Abiuso, in contrast, discloses a balloon catheter having two expandable balloons such that the outer diameter of the Abiuso balloon catheter is expandable. For at least this reason, Abiuso does not anticipate the catheter of Claim 1.

Additionally, Applicants submit that Claims 2-7 and 9-10 are also patentable over the prior art, not only because they depend from Claim 1, but also on their own merit.

Further, with respect to U.S. 5,425,723 to Wang, replacing the inner tube of the Wang catheter with a porous member would not be obvious to one of ordinary skill in the art. The Wang reference utilizes specifically-placed holes in coaxial tubes to provide uniform fluid flow over the length of the catheter. In particular, the spacing of the exit holes between the inner and outer catheter tubes is designed such that the average fluid flow length of fluid exiting the catheter becomes smaller towards the distal end of the catheter to compensate for pressure loss. Thus, particular spacing of the exit holes between the inner and outer catheter tubes is critical for proper functionality of the Wang catheter. Accordingly, it would not be obvious to one of skill in the art to replace the inner catheter tube of the Wang catheter, which includes a plurality of distinct, precisely located exit holes, with a member made from a porous material that becomes

**Appl. No.** : 10/828,923  
**Filed** : April 21, 2004

saturated with fluid, at least because doing so would change the principal of operation of the Wang catheter.

For at least these reasons, it is submitted that Claims 1-7 and 9-10 are allowable over the prior art of record. Accordingly, consideration and allowance of these claims are respectfully requested.

#### CONCLUSION

For the foregoing reasons, it is respectfully submitted that the rejections set forth in the outstanding Office Action are inapplicable to the present claims. Accordingly, early issuance of a Notice of Allowance is most earnestly solicited.

The undersigned has made a good faith effort to respond to all of the rejections in the case and to place the claims in condition for immediate allowance. Nevertheless, if any undeveloped issues remain or if any issues require clarification, the Examiner is respectfully requested to call Applicant's attorney, Curtiss C. Dosier at (949) 721-7613 (direct line), to resolve such issue promptly.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: July 24, 2007

By: 

Curtiss C. Dosier  
Registration No. 46,670  
Attorney of Record  
Customer No. 20,995  
(949) 760-0404

3959043  
070307